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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNIVERSAL DYEING & PRINTING,
INC., a California Corporation,

Plaintiff,

v.

KNITWORK PRODUCTIONS II LLC,
et al.,

Defendants.

Case No.: CV17-5660-ODW(MRWx)
*Referred to the Hon. Michael R.
Wilner*

**ORDER TO STIPULATED
PROTECTIVE ORDER**

1. INTRODUCTION

a. Purposes and Limitations

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosures and use extends only to the

1 limited information or items that are entitled to confidential treatment under the
2 applicable legal principles. The parties further acknowledge, as set forth in Section
3 12(c), below, that this Stipulated Protective Order does not entitle them to file
4 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
5 that must be followed and the standards that will be applied when a party seeks
6 permission from the Court to file material under seal.

7 b. Good Cause Statement

8 This action is likely to involve trade secrets, customer and pricing lists and
9 other valuable research, development, commercial, financial, technical and/or
10 proprietary information for which special protection from public disclosure and from
11 use for any purpose other than prosecution of this action is warranted. Such
12 confidential and proprietary materials and information consist of, among other things,
13 confidential business or financial information, information regarding confidential
14 business practices, or other confidential research, development, or commercial
15 information (including information implicating privacy rights of third parties),
16 information otherwise generally unavailable to the public, or which may be
17 privileged or otherwise protected from disclosure under state or federal statutes, court
18 rules, case decisions, or common law.

19 Moreover, there is good cause for a two-tiered or attorneys-eyes-only
20 designation inclusion in this protective order as certain of the Parties are suppliers,
21 customers and/or competitors of one another and discovery will include sourcing
22 information, wholesale prices, product mark-up, overhead, customers, vendors,
23 manufacturing and other sourcing information and confidential and non-public
24 financial and business information that the parties would reasonably protect from
25 customers and/or competitors.

26 Accordingly, to expedite the flow of information, to facilitate the prompt
27 resolution of disputes over confidentiality of discovery materials, to adequately
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1 protect information the parties are entitled to keep confidential, to ensure that the
2 parties are permitted reasonable and necessary uses of such material in preparation
3 for and in the conduct of trial, to address their handling at the end of the litigation,
4 and to serve the ends of justice, a protective order for such information is justified in
5 this matter. It is the intent of the parties that information will not be designated as
6 confidential for tactical reasons and that nothing be so designated without a good
7 faith belief that it has been maintained in a confidential, non-public manner, and there
8 is good cause why it should not be part of the public record of this case.

9 **2. DEFINITIONS**

10 a. Action: *Universal Dying & Printing, Inc., v. Knitwork Productions II*
11 *LLC, et al.*, Case No.: CV-05660-ODW(MRWx)

12 b. Challenging Party: a Party or Non-Party that challenges the designation
13 of information or items under this Order.

14 c. “CONFIDENTIAL” Information or Items: information (regardless of
15 how it is generated, stored, or maintained) or tangible things that qualify for
16 protection under Federal Rule of Civil Procedure 26(c), and as specified about in the
17 Good Cause Statement.

18 d. “HIGHLY CONFIDENTIAL”—ATTORNEYS’ EYES ONLY”
19 Information or Items: extremely sensitive “CONFIDENTIAL” Information or Items,
20 the disclosure of which to another Party or Non-Party would create a substantial risk
21 of serious harm that could not be avoided by less restrictive means.

22 e. Counsel: Outside Counsel of Record and House Counsel (as well as their
23 support staff).

24 f. Designating Party: a Party or Non-Party that designates information or
25 items that it produces in disclosures or in responses to discovery as
26 “CONFIDENTIAL or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
27 ONLY.”

1 g. Disclosure or Discovery Material: all items or information, regardless of
2 the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced or
4 generated in disclosures or responses to discovery in this matter.

5 h. Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as
7 an expert witness or as a consultant in this Action.

8 i. House Counsel: attorneys who are employees of a party to this Action.
9 House Counsel does not include Outside Counsel of Record or any other outside
10 counsel.

11 j. Non-Party: any natural person, partnership, corporation, association, or
12 other legal entity not named as a Party to this action.

13 k. Outside Counsel of Record: attorneys who are not employees of a party
14 to this Action but are retained to represent or advise a party to this Action and have
15 appeared in this Action on behalf of that party or are affiliated with a law firm which
16 has appeared on behalf of that party, and includes support staff.

17 l. Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 m. Producing Party: a Party or Non-party that produces Disclosure or
21 Discovery Material in this Action.

22 n. Professional Vendors: persons or entities that provide litigation support
23 services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

1 o. Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’
3 EYES ONLY.”

4 p. Receiving Party: a Party that receives Disclosure or Discovery Material
5 from a Producing Party

6 3. SCOPE

7 The protections conferred by this Stipulation and Order cover not only
8 Protected Material (as defined above), but also (1) any information copied or
9 extracted from Protected Material; (2) all copies, excerpts, summaries, or
10 compilations of Protected Material; and (3) any testimony, conversations, or
11 presentations by Parties or their Counsel that might reveal Protected Material.

12 Any use of Protected Material at trial will be governed by the orders of the trial
13 judge. This Order does not govern the use of Protected Material at trial.

14 4. DURATION

15 Even after final disposition of this litigation, the confidentiality obligations
16 imposed by this Order will remain in effect until a Designating Party agrees
17 otherwise in writing or a court order otherwise directs. Final disposition will be
18 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
19 or without prejudice; and (2) final judgment herein after the completion and
20 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
21 including the time limits for filing any motions or applications for extension of time
22 pursuant to applicable law.

23 5. DESIGNATED PROTECTED MATERIAL

24 a. Exercise of Restraint and Care in Designating Material for Protection.

25 Each Party or Non-Party that designates information or items for protection under this
26 Order must take care to limit any such designation to specific material that qualifies
27 under the appropriate standards. The Designating Party must designate for protection
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1 only those parts of material, documents, items, or oral or written communications that
2 qualify so that other portions of the material, documents, items, or communications
3 for which protection is not warranted are not swept unjustifiably within the ambit of
4 this Order.

5 Mass, indiscriminate, or routinized designations are prohibited. Designations
6 that are shown to be clearly unjustified or that have been made for an improper
7 purpose (e.g., to unnecessarily encumber the case development process or to impose
8 unnecessary expenses and burdens on other parties) may expose the Designating
9 Party to sanctions.

10 If it comes to a Designating Party's attention that information or items that it
11 designated for protection do not qualify for protection, that Designating Party must
12 promptly notify all other Parties that it is withdrawing the inapplicable designation.

13 b. Manner and Timing of Designations.

14 Except as otherwise provided in this Order (see, e.g., second paragraph of
15 section 5(b)(i) below), or as otherwise stipulated or ordered, Disclosure or Discovery
16 Material that qualifies for protection under this Order must be clearly so designated
17 before the material is disclosed or produced. Designation in conformity with this
18 order requires:

19 i. for information in documentary form (e.g., paper or electronic
20 documents, but excluding transcripts of depositions or other pretrial or trial
21 proceedings), that the Producing Party affix at a minimum, the legend
22 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL-ATTORNEYS' EYES
23 ONLY" to each page that contains protected material. If only a portion or portions of
24 the material on a page qualifies for protection, the Producing Party also must clearly
25 identify the protected portion(s) (e.g., by making appropriate markings in the
26 margins).

1 A Party or Non-Party that makes original documents available for
2 inspection need not designate them for protection until after the inspecting Party has
3 indicated which documents it would like copied and produced. During the inspection
4 and before the designation, all of the material made available for inspection will be
5 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents
6 it wants copied and produced, the Producing Party must determine which documents,
7 or portions thereof, qualify for protection under this Order. Then, before producing
8 the specified documents, the Producing Party must affix the legend
9 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL–ATTORNEYS’ EYES
10 ONLY” to each page that contains Protected Material. If only a portion or portions of
11 the material on a page qualifies for protection, the Producing Party also must clearly
12 identify the protected portion(s) (e.g., by making appropriate markings in the
13 margins).

14 ii. for testimony given in depositions, that the Designating Party
15 identify the Disclosure or Discovery Material on the record, before the close of the
16 deposition all protected testimony.

17 iii. for information produced in some form other than documentary
18 and for any other tangible items, that the Producing Party affix in a prominent place
19 on the exterior of the container or containers in which the information is stored the
20 legend “CONFIDENTIAL.” If only a portion or portions of the information warrants
21 protection, the Producing Party, to the extent practicable, will identify the protected
22 portion(s).

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24 c. Inadvertent Failures to Designate. If timely corrected, an inadvertent
25 failure to designate qualified information or items does not, standing alone, waive the
26 Designating Party’s right to secure protection under this Order for such material.
27 Upon timely correction of a designation, the Receiving Party must make reasonable
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1 efforts to assure that the material is treated in accordance with the provisions of this
2 Order.

3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 a. Timing of Challenges. Any Party or Non-Party may challenge a
5 designation of confidentiality at any time that is consistent with the Court's
6 Scheduling Order.

7 b. Meet & Confer. The Challenging Party will initiate the dispute
8 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
9 et seq.

10 c. The burden of persuasion in any such challenge proceeding will be on
11 the Designating Party. Frivolous challenges, and those made for an improper purpose
12 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
13 expose the Challenging Party to sanctions. Unless the Designating Party has waived
14 or withdrawn the confidentiality designation, all parties will continue to afford the
15 material in question the level of protection to which it is entitled under the Producing
16 Party's designation until the Court rules on the challenge.

17 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

18 a. Basic Principles. A Receiving Party may use Protected Material that is
19 disclosed or produced by another Party or by a Non-Party in connection with this
20 Action only for prosecuting, defending, or attempting to settle this Action. Such
21 Protected Material may be disclosed only to the categories of persons and under the
22 conditions described in this Order. When the Action has been terminated, a Receiving
23 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a
25 location and in a secure manner that ensures that access is limited to the persons
26 authorized under this Order.

27 b. Disclosure of "CONFIDENTIAL" Information or Items.

1 Unless otherwise ordered by the Court or permitted in writing by the
2 Designating Party, a Receiving Party may disclose any information or item
3 designated “CONFIDENTIAL” only to:

4 i. The Receiving Party’s Outside Counsel of Record in this Action,
5 as well as employees of said Outside Counsel of Record to whom it is reasonably
6 necessary to disclose the information for this Action;

7 ii. The officers, directors, and employees (including House Counsel)
8 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

9 iii. Experts (as defined in this Order) of the Receiving Party to whom
10 disclosure is reasonably necessary for this Action and who have signed the
11 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 iv. The Court and its personnel;

13 v. Court reporters and their staff;

14 vi. Professional jury or trial consultants, mock jurors, and
15 Professional Vendors to whom disclosure is reasonably necessary for this Action and
16 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 vii. The Author or recipient of a document containing the information
18 or a custodian or other person who otherwise possessed or knew the information;

19 viii. During their depositions, witnesses, and attorneys for witnesses,
20 in the Action to whom disclosure is reasonably necessary, provided: (1) the deposing
21 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
22 they will not be permitted to keep any confidential information unless they sign the
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
24 agreed by the Designating Party or ordered by the Court. Pages of transcribed
25 deposition testimony or exhibits to depositions that reveal Protected Material may be
26 separately bound by the court reporter and may not be disclosed to anyone except as
27 permitted under this Stipulated Protective Order; and
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ix. Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

c. Disclosure of “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY” Information or Items.

Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY” only to:

i. The Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

ii. Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

iii. The Court and its personnel;

iv. Court reporters and their staff;

v. Professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

vi. The Author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

vii. Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

1 If a Party is served with a subpoena or a court order issued in other litigation
2 that compels disclosure of any information or items designated in this Action as
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
4 ONLY,” that Party must:

5 a. Promptly notify in writing the Designating Party. Such notification will
6 include a copy of the subpoena or court order;

7 b. Promptly notify in writing the party who caused the subpoena or order to
8 issue in the other litigation that some or all of the material covered by the subpoena
9 or order is subject to this Protective Order. Such notification will include a copy of
10 this Stipulated Protective Order; and

11 c. Cooperate with respect to all reasonable procedures sought to be pursued
12 by the Designating Party whose Protected Material may be affected.

13 If the Designating Party timely seeks a protective order, the Party served with
14 the subpoena or court order will not produce any information designated in this
15 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’
16 EYES ONLY” before a determination by the court from which the subpoena or order
17 issued, unless the Party has obtained the Designating Party’s permission. The
18 Designating Party will bear the burden and expense of seeking protection in that
19 court of its confidential material and nothing in these provisions should be construed
20 as authorizing or encouraging a Receiving Party in this Action to disobey a lawful
21 directive from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
23 PRODUCED IN THIS LITIGATION

24 a. The terms of this Order are applicable to information produced by a
25 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
26 produced by Non-Parties in connection with this litigation is protected by the
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1 remedies and relief provided by this Order. Nothing in these provisions should be
2 construed as prohibiting a Non-Party from seeking additional protections.

3 b. In the Event that a Party is required, by a valid discovery request, to
4 produce a Non-Party's confidential information in its possession, and the Party is
5 subject to an agreement with the Non-Party not to produce the Non-Party's
6 confidential information, then the Party will:

7 i. Promptly notify in writing the Requesting Party and the Non-
8 Party that some or all of the information requested is subject to a confidentiality
9 agreement with a Non-Party;

10 ii. Promptly provide the Non-Party with a copy of the Stipulated
11 Protective Order in this Action, the relevant discovery request(s), and a reasonably
12 specific description of the information requested and

13 iii. Make the information requested available for inspection by the
14 Non-Party, if requested.

15 c. If the Non-Party fails to seek a protective order from this Court within
16 14 days of receiving the notice and accompanying information, the Receiving Party
17 may produce the Non-Party's confidential information responsive to the discovery
18 request. If the Non-Party timely seeks a protective order, the Receiving Party will not
19 produce any information in its possession or control that is subject to the
20 confidentiality agreement with the Non-Party before a determination by the Court.
21 Absent a court order to the contrary, the Non-Party will bear the burden and expense
22 of seeking protection in this Court of its Protected Material.

23 10.UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
25 Protected Material to any person or in any circumstance not authorized under this
26 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
27 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
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1 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
2 persons to whom unauthorized disclosures were made of all the terms of this Order,
3 and (d) request such person or persons to execute the “Acknowledgment and
4 Agreement to Be Bound” that is attached hereto as Exhibit A.

5 11. INADVERTANT PRODUCTION OF PRIVILEGED OR OTHERWISE
6 PROTECTED MATERIAL

7 When a Producing Party gives notice to Receiving Parties that certain
8 inadvertently produced material is subject to a claim of privilege or other protection,
9 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
10 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
11 may be established in an e-discovery order that provides for production without prior
12 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
13 parties reach an agreement on the effect of disclosure of a communication or
14 information covered by the attorney-client privilege or work product protection, the
15 parties may incorporate their agreement in the stipulated protective order submitted to
16 the Court.

17 12. MISCELANEOUS

18 a. Right to Further Relief. Nothing in this Order abridges the right of any
19 person to seek its modification by the Court in the future.

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21 b. Right to assert other Objections. By stipulating to the entry of this
22 Protective Order, no Party waives any right it otherwise would have to object to
23 disclosing or producing any information or item on any ground not addressed in this
24 Stipulated Protective Order. Similarly, no Party waives any right to object on any
25 ground to use in evidence of any of the material covered by this Protective Order.

26 c. Filing Protected Material. A Party that seeks to file under seal any
27 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
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1 only be filed under seal pursuant to a court order authorizing the sealing of the
2 specific Protected Material at issue. If a Party's request to file Protected Material
3 under seal is denied by the Court, then the Receiving Party may file the information
4 in the public record unless otherwise instructed by the Court.

5 13.FINAL DISPOSITION

6 After the final disposition of this Action, as defined in paragraph 4, within 60
7 days of a written request by the Designating Party, each Receiving Party must return
8 all Protected Material to the Producing Party or destroy such material. As used in this
9 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
10 summaries, and any other format reproducing or capturing any of the Protected
11 Material. Whether the Protected Material is returned or destroyed, the Receiving
12 Party must submit a written certification to the Producing Party (and, if not the same
13 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
14 (by category, where appropriate) all the Protected Material that was returned or
15 destroyed and (2) affirms that the Receiving Party has not retained any copies,
16 abstracts, compilations, summaries or any other format reproducing or capturing any
17 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
18 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
19 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
20 reports, attorney work product, and consultant and expert work product, even if such
21 materials contain Protected Material. Any such archival copies that contain or
22 constitute Protected Material remain subject to this Protective Order as set forth in
23 Section 4 (DURATION).

24 14. Any willful violation of this Order may be punished by civil or criminal
25 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
26 authorities, or other appropriate action at the Court's discretion.
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FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: June 12, 2018



HON. MICHAEL R. WILNER
United States Magistrate Judge

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